

AUG 25 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAFAEL CORNEJO,

Defendant - Appellant.

No. 05-10689

D.C. No. CR-92-00403-TEH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Thelton E. Henderson, District Judge, Presiding

Submitted August 21, 2006**

Before: GOODWIN, REINHARDT, and BEA, Circuit Judges.

Federal prisoner Rafael Cornejo appeals *pro se* from the district court's order on remand from this court denying Cornejo's renewed motion for relief under Federal Rule of Civil Procedure 60(b), challenging his conviction and sentence for narcotics trafficking and use of a telephone to facilitate those offenses

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

in violation of 21 U.S.C. §§ 843(b) and 846. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Cornejo contends that the district court erred in determining that his renewed motion under Rule 60(b) was a second or successive § 2255 habeas motion that lacked the required authorization from this court.

Cornejo's renewed Rule 60(b) motion raises the same issues as his original motion. We previously concluded that his original Rule 60(b) motion was an impermissible attempt at a second or successive § 2255 motion. Accordingly, we are precluded by the law of the case from reconsidering our previous determination that the district court properly treated Cornejo's motion as an unauthorized second or successive § 2255 motion. *See* 28 U.S.C. § 2244(b); *see also United States v. Alexander*, 106 F.3d 874, 876-77 (9th Cir. 1997).

AFFIRMED.